

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA

v.

Criminal No. 3:07CR300

ANDRE WHITFIELD,

Petitioner.

MEMORANDUM ORDER

Petitioner, a federal prisoner proceeding *pro se*, has submitted a motion pursuant to 28 U.S.C. § 2255. The Clerk is DIRECTED TO SERVE a copy of the motion and this Memorandum Order on the United States Attorney who shall file a complete, fully briefed response to that motion within sixty (60) days of service.¹ Any reply by Petitioner shall be filed thirty (30) days thereafter.

In accordance with *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner is advised that he is entitled to file a reply opposing the response of the United States that includes counter-affidavits,² statements, exhibits, or other legal or factual material that supports his

¹ If in its response, the United States contends that the events of any in-Court proceedings bear on the merits of Petitioner's claims, the response shall cite to the relevant page of the transcript of that proceeding. If the proceeding has not been transcribed, the United States shall contact the appropriate Court Reporter to transcribe the proceeding. See Rule 5, Rules Governing § 2255 Proceedings.

² An affidavit is a sworn statement of facts made on personal knowledge, and affidavits may be submitted by Petitioner or any other witnesses. There are two alternative ways to submit an affidavit to the Court, one of which must be followed. One way is for the person making the affidavit to sign the affidavit and swear to the truth before a notary public. The other way, which does not require a notary public, is for the person making the affidavit to sign the affidavit and certify that he signs under penalty of perjury and understands that he may be prosecuted if the facts he sets forth are untrue.

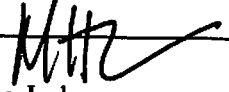
position in the case. In addition to such material, Petitioner is entitled to file a legal brief in opposition to the one filed by the United States.

Petitioner is further advised that if he does not reply to the response of the United States and send a complete copy of his reply to counsel for the United States, the Court will decide the motion on the papers already filed by Petitioner and counsel for the United States. A decision favoring the United States would result in the denial of Petitioner's § 2255 motion.

The Clerk is DIRECTED to send a copy of this Memorandum Order to Petitioner and counsel for the United States.

It is so ORDERED.

Date: 4-30-10
Richmond, Virginia

_____/s/ 
M. Hannah Lauck
United States Magistrate Judge